

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
SOUTHERN DIVISION

NED ROBINSON and  
LINDA C. ROBINSON

PLAINTIFFS

v.

CAUSE NO. 1:20CV40-LG-RPM

ACTION RESOURCES, LLC,  
and DEMETRIUS A. SMITH

DEFENDANTS

ORDER GRANTING DEFENDANTS MOTION FOR JUDGMENT  
ON THE PLEADINGS AS TO CLAIMS OF INDEPENDENT  
NEGLIGENCE AND PUNITIVE DAMAGES

THIS CAUSE came before Court on Defendants' 12(c) Motion for Judgment on the Pleadings as to Claims of Independent Negligence and Punitive Damages. [Doc. 59]. The Court, having been informed that Plaintiffs have confessed the Motion, hereby finds that the Motion is well-taken and should be granted.

**IT IS THEREFORE ORDERED** that Counts VI<sup>1</sup> (Negligence); VII (Negligence Per Se), and VIII (Gross Negligence) as to Defendant Action Resources are hereby dismissed with prejudice. Further, Count III (Gross Negligence) as to Defendant Smith is also dismissed with prejudice. The remaining case will proceed as a claim of simple negligence.

In accordance with Federal Rule of Civil Procedure 54(b), this Court directs entry of final judgment on the abovementioned Counts and expressly finds that there is no just reason for the delay.

**SO ORDERED AND ADJUDGED** this the 30<sup>th</sup> day of April, 2021.

  
UNITED STATES DISTRICT COURT JUDGE

<sup>1</sup> Count VI [sic] Vicarious Liability is not dismissed.

Agreed as to form and substance:

/s Nicole Huffman

Nicole C. Huffman (MSB #101457)

Brent D. Anderson – *pro hac vice*

Sonia E. Johnson – *pro hac vice*

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Andrew K. Nicolas

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Andrew B. Ezell – *pro hac vice*

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